

REMARKS

Claims 1-14 and 27-38, as amended herein, and new claims 39-42 remain pending.

Objection to the Drawings:

In view of the cancellation of claims 15-26, and the amendments to claim 27 that clarify the acoustic switch is located in the implant, the objection to the drawings is believed to be overcome.

Claim Rejections Under §112:

In view of the cancellation of claims 15-26, and the amendments to claim 27 that clarify the acoustic switch is located in the implant, the claim rejections under §112 are believed to be overcome.

Claim Rejection Under §103:

Claim 1 stands rejected under 35 U.S.C. §103 as being allegedly obvious over Chen et al. '530 ("Chen") in view of Ohara '954 ("Ohara"). Applicants respectfully disagree. The pacing circuitry in the "demand cardiac pacer" of Chen is always "ON", in other words, always coupled to the power source C for providing a pacing signal, depending on the patient's heart activity. The magnetic reed switch S, does not activate the pacing signal operation of the demand cardiac pacer, but instead selectively activates a battery charge test circuit (sensing amplifier Q, et al) to induce a test mode in the circuit that overrides the normal pacing function.

In direct contrast, the implant of claim 1 is activated in the first instance (an only operates so long as) the switch is closed upon receipt of an acoustic control signal from the external

controller. Thus, even if the magnetic reed switch S of Chen were replaced by an ultrasonic transmission technique as described in Ohara, all of the limitations of claim 1 would still not be present. Moreover, there is no motivation provided in either reference (or otherwise except in hindsight in view of the present application) for making such substitution.

CONCLUSION

Based on the foregoing claim amendments and remarks, reconsideration and allowance of the application is respectfully requested. If the Examiner disagrees, or otherwise wishes to discuss the application, please contact the undersigned.

DATE: October 3, 2005

Respectfully submitted,

By: 
David T. Burse
Registration No. 37,104

Bingham McCutchen LLP
Three Embarcadero Center, Suite 1800
San Francisco, California 94111
Telephone: (650) 849-4824
Fax: (650) 849-4800
david.burse@bingham.com